

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WILLIAM RUSSELL BARGER,	)	4:04CV3268
	)	
Plaintiff,	)	
	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
	)	
MIKE JOHANNNS, in his capacity as	)	
Secretary of the United States	)	
Department of Agriculture,	)	
	)	
Defendant.	)	

This matter is before the court on Plaintiff's statement of appeal regarding a memorandum and order that was entered by Magistrate Judge Piester on June 8, 2005 (filing 33), denying Plaintiff's motion to conduct discovery (filing 27).

Upon careful review, pursuant to 28 U.S.C. § 636(b)(1)(A), Fed. R. Civ. P. 72(a), and NECivR 72.2, I find that Judge Piester's order is not clearly erroneous or contrary to law. Thus, the appeal will be denied and the order will be sustained.

IT IS ORDERED that:

1. Plaintiff's statement of appeal (filing 34) is denied.
2. The Magistrate Judge's order (filing 33) shall not be disturbed and is hereby sustained.
3. Pursuant to Fed. R. Civ. P. 25(d)(1), the current Secretary of the USDA, Mike Johanns, is substituted for Ann Veneman as Defendant.

4. This matter is referred to Judge Piester for ruling on Defendant's motion to set a briefing schedule (filing 13).<sup>1</sup>

July 29, 2005.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge

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<sup>1</sup> On March 17, 2005, Judge Piester entered an order (filing 26) that, among other things, withdrew part of an earlier order (filing 20) granting Defendant's motion and establishing a schedule for submission of the case on cross-motions for summary judgment. Judge Piester stated in the March 17th order that ruling on Defendant's motion would be deferred until Plaintiff's motion to conduct discovery was resolved.